

(e) *Identification of must-carry signals.* A cable operator shall respond in writing within 30 days to any written request by any person for the identification of the signals carried on its system in fulfillment of the requirements of this section. Pursuant to § 76.302, a cable operator must place a list of the broadcast television signals carried in fulfillment of these must-carry obligations in its public file.

(f) Carriage of additional broadcast television signals on such system shall be at the discretion of the cable operator, subject to the retransmission consent rules, § 76.64. A cable system may also carry any ancillary service transmission on the vertical blanking interval or the aural baseband of any television broadcast signal, including, but not limited to, multichannel television sound and teletext.

[58 FR 17360, Apr. 2, 1993, as amended at 58 FR 39161, July 22, 1993; 58 FR 40368, July 28, 1993; 59 FR 62344, Dec. 5, 1994]

**§ 76.57 Channel positioning.**

(a) At the election of the licensee of a local commercial broadcast television station, and for the purpose of this section, a qualified low power television station, carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992.

(b) At the election of the licensee of a qualified local NCE broadcast television station carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the qualified NCE television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985.

(c) Any signal carried in fulfillment of the must-carry obligations may be carried on such other channel number as is mutually agreed upon by the station and the cable operator.

(d) At the time a local commercial station elects must-carry status pursuant to § 76.64, such station shall notify the cable system of its choice of chan-

nel position as specified in paragraphs (a)–(c) of this section. A qualified NCE stations shall notify the cable system of its choice of channel position when it requests carriage. Channel positioning requests from local commercial stations shall be fulfilled by the cable operator no later than October 6, 1993.

NOTE: Any existing agreement for channel position between a local commercial station entitled to must-carry status and a cable operator entered into prior to June 28, 1990, may continue through the expiration of such agreement.

(e) Pursuant to § 76.64(f)(3), a local commercial broadcast television station that fails to make an election is deemed a must-carry station. A cable operator shall carry such a television station on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992. In the event that none of these specified channel positions is available due to a channel positioning request from a commercial television station affirmatively asserting its must-carry rights or such a request from a qualified local noncommercial educational station, the cable operator shall place the signal of such a television station on a channel of the cable system's choice, so long as that channel is included on the basic service tier.

[58 FR 17361, Apr. 2, 1993, as amended at 58 FR 40368, July 28, 1993; 59 FR 62345, Dec. 5, 1994]

**§ 76.58 Notification.**

(a) Effective April 2, 1993, a cable operator shall provide written notice to any broadcast television station at least 30 days prior to either deleting from carriage or repositioning that station. Such notification shall also be provided to subscribers of the cable system.

NOTE: No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. For this purpose, such periods are the four national four-week ratings periods—generally including February, May, July and November—commonly known as audience sweeps.

(b) By May 3, 1993, a cable operator must notify all qualified NCE stations of its designated principal headend by certified mail.

(c) A cable operator shall provide written notice by certified mail to all stations carried on its system pursuant to the must-carry rules at least 60 days prior to any change in the designation of its principal headend, and shall include the new designation in its public file.

(d) By May 3, 1993, a cable operator must notify all local commercial and NCE stations that may not be entitled to carriage because they either

(1) Fail to meet the standards for delivery of a good quality signal to the cable system's principal headend or

(2) May cause an increased copyright liability to the cable system.

(e) By June 2, 1993, a cable operator must send by certified mail a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must-carry stations and those not carried on the system.

[58 FR 17361, Apr. 2, 1993]

#### **§ 76.59 Modification of television markets.**

(a) The Commission, following a written request from a broadcast station or a cable system, may deem that the television market of a particular commercial television broadcast station should include additional communities within its television market or exclude communities from such station's television market. In this respect, communities may be considered part of more than one television market.

(b) Such requests for modification of a television market shall be submitted in accordance with § 76.7, petitions for special relief.

(c) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this section.

[58 FR 17361, Apr. 2, 1993]

#### **§ 76.60 Compensation for carriage.**

A cable operator is prohibited from accepting or requesting monetary payment or other valuable consideration in exchange either for carriage or channel positioning of any broadcast television station carried in fulfillment of the must-carry requirements, except that

(a) Any such station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system; or

(b) A cable operator may accept payments from stations which would be considered distant signals under the cable compulsory copyright license, 17 U.S.C. 111, as indemnification for any increased copyright liability resulting from carriage of such signal.

NOTE: A cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the must-carry requirements, through, but not beyond, the date of expiration of an agreement between a cable operator and a local commercial television station entered into prior to June 26, 1990.

(c) A cable operator may accept payments from stations pursuant to a retransmission consent agreement, even if such station will be counted towards the must-carry complement, as long as all other applicable rules are adhered to.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994]

#### **§ 76.61 Disputes concerning carriage.**

(a) *Complaints regarding carriage of local commercial television stations.* (1) Whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to §§ 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.